

**ITEL**  
**CORPORATION**  
RAIL DIVISION

Edward P. Schneider  
VICE PRESIDENT AND TREASURER

RECORDATION NO. 9693  
Filed & Recorded

SEP 13 1978 - 2 12 PM

INTERSTATE COMMERCE COMMISSION

RECEIVED  
SEP 13 2 01 PM '78  
I.C.C.  
FEE OPERATION BR.

September 7, 1978

Hon. H. G. Homme  
Acting Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Sir:

Enclosed for filing with and recording by the Interstate Commerce Commission are an original and five copies of a Conditional Sale Agreement dated as of August 31, 1978, between Pullman Standard (Division of Pullman Incorporated), 200 South Michigan Avenue, Chicago, Illinois 60604, and Itel Corporation, acting through its Rail Division, Two Embarcadero Center, San Francisco, California, 94111, covering 150 general purpose boxcars (AAR Mechanical Designation XM), numbered TXM 3000-3149, inclusive. Identifying marks on the foregoing equipment: "Owned by a Bank or Trust Company under a Security Agreement filed under the Interstate Commerce Act, Section 20c".

Also enclosed is this Company's check in the sum of \$50.00, payable to the Interstate Commerce Commission, being the prescribed fee for filing and recording the foregoing Conditional Sale Agreement.

Please return all additional copies not required by the Interstate Commerce Commission to David Schwartz, Esq., of Sullivan and Worcester, who will be delivering this letter on our behalf.

Very truly yours,

*Edward P. Schneider*  
Edward P. Schneider

EPS/bl  
enclosures

TWO EMBARCADERO CENTER  
SAN FRANCISCO  
CALIFORNIA 94111  
(415) 955-9090  
TELEX 34-234

8-255A141

SEP 13 1978  
Date  
Fee \$ 50

ICC Washington, D. C.

THIS AGREEMENT, dated as of August 31, 1978, by and between Pullman Incorporated (Pullman Standard Division), a Delaware corporation (hereinafter called the "Manufacturer"), and Itel Corporation, a Delaware corporation, acting through its Rail Division, (hereinafter called the "Vendee").

W I T N E S S E T H

The Manufacturer and the Vendee have heretofore entered into the Purchase Agreement (hereinafter called the "Purchase Agreement") referred to in Section 1, of Schedule A, hereto attached (hereinafter called "Schedule A") whereunder the Manufacturer has agreed to construct and deliver to the Vendee at the delivery point specified in Section 2, of Schedule A and the Vendee has agreed to accept and pay for the Railroad equipment (hereinafter individually called a Car and collectively called the "Cars") described in Section 3, of Schedule A; and

Inasmuch as the Vendee contemplates no third party financing arrangements for acquisition of the Cars prior to payment therefor, and the Vendee does not wish to pay for the cars prior to shipment of the Cars from the Manufacturer's plant, the Vendee (in order that it may use the Cars during the time between shipment from the Manufacturer's plant and payment of the purchase price 10 business days after delivery, acceptance and invoicing for all of the Cars) has requested the Manufacturer to give the Vendee temporary custody and possession of the Cars on completion, solely as a bailee of the Cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the premises and of the promises of the parties herein contained, the parties agree as follows:

1. The Manufacturer agrees to deliver the Cars to the Vendee and the Vendee agrees to accept the Cars from the Manufacturer at the delivery point above referred to. The rights of the Vendee hereunder in respect of each Car shall commence on the date of acceptance of each such Car and end on the earlier of November 1, 1978, or the date of payment of the purchase price for all of the Cars. When the purchase price of all of the Cars has been paid, this Agreement shall automatically be terminated without further action by or notice to any party concerned. On delivery of each Car to the Vendee, the Vendee will assume the responsibility and risk of loss with respect to such Car.

2. After the Vendee's representative finds that each Car upon completion has been built in accordance with the requirements of the Purchase Agreement, he will execute and deliver to the Manufacturer a certificate of acceptance acknowledging the receipt of delivery of each Car under this Agreement. Title to the Cars shall remain in the Manufacturer and the Vendee's right and interest therein is and shall be solely that of possession, custody, and use as bailee under this Agreement. Transfer of title shall be effected only at the time of payment. At such time, the Manufacturer shall, at the request and expense of the Vendee, execute to the Vendee, a bill of sale for the Cars as is, where is, and without warranty of any kind except only that the Cars are free from all liens and encumbrances created by the Manufacturer. Neither

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INTERSTATE COMMERCE COMMISSION

the inspection nor any examination nor the acceptance of any Car shall be deemed a waiver or a modification by the Vendee of any of its rights against the Manufacturer under any warranties contained in the Purchase Agreement. The Vendee, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, the Vendee shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Cars.

3. The Vendee agrees that it will permit no liens of any kind to attach to the Cars (other than any rights of its lessee under the Vendee's lease with such lessee); and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses, or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges, and penalties

that may accrue or be assessed or imposed upon the Cars or the Manufacturer because of its ownership or because of the use, marking, operation, management or handling of the Cars by the Vendee during the term of this Agreement. The Vendee's obligations contained in this paragraph shall survive the termination of this Agreement by mutual agreement or otherwise.

4. The Vendee will, at its own expense, keep and maintain the Cars in good order and running condition and will at its option repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term of this Agreement. Upon the expiration or other termination of this Agreement, other than by payment of the purchase price, the Vendee will surrender and deliver up the Cars in good order and running condition to the Manufacturer free of all charges at the point designated by the Manufacturer.

5. Prior to the delivery of each Car to the Vendee, such Car will be numbered with a car number as set forth in Section 3, of Schedule A, and there shall be plainly, distinctly, permanently, and conspicuously marked and maintained by the Vendee upon each side of each Car in letters not less than one inch in height the words set forth in Section 5, of Schedule A.

6. The Vendee agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to the Vendee of the Cars, as contemplated by this Agreement, shall not relieve the Vendee of its obligations to accept, take, and pay for the Cars in accordance with the terms of the Purchase Agreement, or impair any of the Manufacturer's rights under the Purchase Agreement, which is by reference made a part of this Agreement as fully as though expressly set forth herein.

ATTEST

Samuel N. Kuhn  
Asst Secretary

ATTEST

J. F. Ruzel  
Assistant Secretary

ITEL CORPORATION, RAIL DIVISION

By: [Signature]

Date: \_\_\_\_\_

PULLMAN INCORPORATED  
(Pullman Standard Division)

By: [Signature]

Vice President

Date: \_\_\_\_\_

## SCHEDULE A

### SECTION 1. Purchase Agreement:

Vendee's letter of October 24, 1978, Manufacturer's letter of January 20, 1978, LOT NO. 9993.

### SECTION 2. Delivery Point:

Either at the Manufacturer's plant or to the railroad line of Vendee's lessee, the Texas Mexican Railway Company ("Lessee"), or to such other point as Vendee shall determine.

### SECTION 3. Railroad Equipment:

150 70 TON 50'6" Boxcars - TXM 3000-3149

### SECTION 4. Purchase Price:

The price will not exceed \$36,000.00 per unit nor \$5,400,000.00 for all of the equipment.

### SECTION 5. Markings on Cars:

Stencil in letters at least one inch in height: "owned by a bank or trust company under a security agreement filed under the Interstate Commerce Act, Section 20c."

STATE OF Illinois  
COUNTY OF Cook

SS:

On this 12th date of September 1978, before me personally appeared E.T. Alingus, to me personally known, who, being by me duly sworn, says that he is Vice President of Pullman Standard that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of this board of directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Antonia J. Baumhardt  
Notary Public

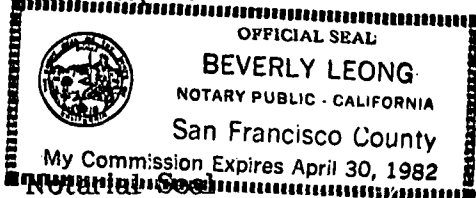
Notarial Seal

My Commission expires: 6/23/80

STATE OF CALIFORNIA  
CITY AND COUNTY OF  
SAN FRANCISCO

SS:

On this 12th day of September 1978, before me personally appeared DONALD H. GLEASON, to me personally known, who, being by me duly sworn, says that he is Vice President of Intel Corporation, Rail Division, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of this board of directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Beverly Leong  
Notary Public

My Commission expires:

# CRAVATH, SWAIN & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

## TELEX

RCA 233863

WUD 125547

WUI 620976

MAURICE T. MOORE  
BRUCE BROMLEY  
WILLIAM B. MARSHALL  
RALPH L. McAFEE  
ROYALL VICTOR  
ALLEN H. MERRILL  
HENRY W. DE KOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS F. RANDOLPH, JR.  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BEDRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN

JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL  
DOUGLAS D. BROADWATER  
ALAN C. STEPHENSON

COUNSEL  
ROSWELL L. GILPATRICK  
ALBERT R. CONNELLY  
FRANK H. DETWEILER  
GEORGE G. TYLER

CARLYLE E. MAW  
L. R. BRESLIN, JR.  
GEORGE B. TURNER  
JOHN H. MORSE  
HAROLD R. MEDINA, JR.  
CHARLES R. LINTON

4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
TELEX: 290530

33 THROGMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
TELEPHONE 01-608-1421  
TELEX: 5614901

CABLE ADDRESSES  
CRAVATH, N.Y.  
CRAVATH, PARIS  
CRAVATH, LONDON E.C. 2

November 15, 1978

Dear Sir:

Will you please record, as provided in Section 20c of the Interstate Commerce Act, the Release and Assignment dated as of October 27, 1978, releasing and assigning certain rights under a Conditional Sale Agreement dated as of August 31, 1978, recorded on September 13, 1978, under recordation number 9693, between the parties set forth below. Five counterpart originals of the document are enclosed with this letter of transmittal, along with a check which includes the \$10 filing fee for this document.

The information required for such recordation by order of the Interstate Commerce Commission is as follows:

Section 1116.4(b). The names and addresses of the parties to the transaction:

Vendor - Pullman Incorporated  
(Pullman Standard Division)  
200 South Michigan Avenue  
Chicago, Illinois 60604

Purchaser - ITEL Corporation  
Two Embarcadero Center,  
San Francisco, California 94111

Section 1116.4(c). Description of the equipment:

*Counterpart*  
*Witness*

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Car Nos.</u>	<u>Marked*</u>	<u>A.A.R. Mechanical Designation</u>
50' 6" 70-Ton Capacity General Purpose Single Sheath Box Cars	150	3000-3149	TM	XM

Section 1116.4(e). Conditional Sale Agreement dated as of August 31, 1978, was filed with the Interstate Commerce Commission at 2:10 p.m. on September 13, 1978, and assigned recordation number 9693.

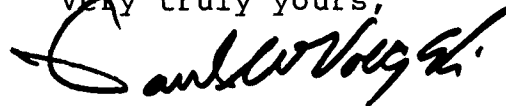
Section 1116.4(f). Four counterpart originals of the document being recorded should be returned to the undersigned.

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\* Each unit will have stenciled on each side thereof the following legend:

"OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT SECTION 20c."

Very truly yours,



Paul W. Voegeli

The Acting Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.